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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

April 2, 2003

BY HAND
Marlene Dortch, Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: Notice of Oral and Written *Ex Parte* Presentation;
WT Docket No. 02-55

Dear Ms. Dortch:

Pursuant to Section 1.1206(b)(2) of the Commission's Rules, this notice is being filed. On Wednesday, April 2, 2003, Mark J. Abrams of Mobile Relay Associates, Charles M. Austin of Preferred Communication Systems, Inc., Jill M. Lyon of the United Telecom Council, Alejandro Calderon and Lipin Tan of Concepts-to-Operations, Inc., Benjamin Aron of Small Business in Telecommunications and I met with Bryan Tramont, Senior Legal Adviser to Chairman Powell, regarding the above-referenced proceeding.

During the meeting, we provided copies of the attached Summary of Position of the Balanced Approach Proponents. In addition, we discussed the previously-filed comments and reply comments of the attendees.

An original and one copy of this letter are submitted for inclusion in the file of the above-referenced proceeding. Please direct any questions to the undersigned.

Sincerely,

David J. Kaufman

Enclosure
cc: Bryan Tramont
Mark J. Abrams
Charles M. Austin
Alejandro Calderon
Jill M. Lyon
Benjamin Aron

rec'd 0+1

SUMMARY OF POSITION OF THE BALANCED APPROACH PROPONENTS

The Balanced Approach Proponents ("Balanced Approach") consist of the United Telecom Council, Small Business in Telecommunications, Preferred Communication Systems, Inc., Mobile Relay Associates, and Kenwood Electronics. These are only some of the entities/commenters that are considering joining; there are a number of other commenters sympathetic to these proposals. Balanced Approach thus already includes entities from many categories: electric, gas and water utilities (a group that utilizes 800 MHz spectrum at least in part to provide homeland security to the nation's power plants, gas and water distribution systems and power grid), business and industrial users, non-Nextel EA General Category Auction licensees, incumbent SMR licensees operating on General Category channels, and equipment manufacturers. This is not merely as broad a spectrum as the so-called "Consensus"; it is a group more representative of the licensees that would suffer harm from the implementation of the Nextel Group's Plan. Most importantly, the Balanced Approach proponents do offer a fully designed alternative plan to eliminate 800 MHz interference while promoting spectrum efficiency and maximizing the future utility of the frequency band.

Description of the Balanced Approach Proposal

I. ***An interfering licensee must be responsible for the interference it causes.***

a. The FCC should codify and enforce its policy that each interfering licensee fix reported interference, even if (subject to item III(a) below) the interfering equipment is operating within current specifications while causing the interference. The FCC rules should require that the interference be substantially eliminated within 60 days after the interfering licensee is contacted.

b. The FCC should codify and adopt a standard that defines a reduction in system reliability of greater than 1% as harmful interference. The standards found in Part 101 of the FCC Rules should be used to measure system reliability. The FCC should codify and amend the regulations as necessary to allow for external filtering and other added equipment to be used to reduce or eliminate interference.

II. ***Specific new technical rules are needed to reflect changing technology and ensure proper engineering of all systems.***

a. Adopt the "APCO Best Practices" recommendation to require that user receiver equipment provide a minimum 75 dB intermodulation specification.

b. Require licensees of "low-site" systems to reduce transmitter ERP to 10 watts per channel.[1] This measure alone would provide an 89% improvement in intermodulation, while the low-site system would continue to operate effectively across its coverage area. "Low sites" may be defined similarly to the "cellular" definition offered by the Nextel Group, *i.e.*: sites 1) that are included within a system with five or more overlapping sites with handoff capability; 2) with twenty or more operating frequencies; and 3) with antennas at a height of less than 100 feet, at a height above average terrain (HAAT) of less than 40 meters.

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[1] Preferred has not yet determined whether it can agree to this exact figure. Technical discussions are ongoing.

c. To reduce sideband emissions, apply the 700 MHz sideband rules to low sites meeting the above definition.
d. Implement Section 4.1.2 of Appendix F to the Supplemental Comments, concerning proposed out-of-band emission standards for base station transmitters. However, a uniform noise suppression standard should apply to the entire band.

III ***Licensing and coordination procedures should promote interference prevention.***
a. Adjacent channel spacing standards should be established for use in coordinating non-EA channels, and frequency coordinators should review the spacing of channels adjacent to the frequency under consideration, as well as the co-channel spacing, during the coordination process.
b. FCC Rules should require licensees to notify authorized 800/900 MHz frequency coordinators thirty days in advance of initiating transmissions from a new "low site" (*see* II(b) above) when any of the frequencies to be used at the site is a non-EA channel.

IV. ***Forced migration is neither necessary nor effective in reducing interference. Private market agreements have been common and successful in the 800 MHz band and are preferable as a matter of cost, targeting interference resolution, and FCC spectrum policy.*** Recognize that while forced relocation of Public Safety might ameliorate interference in one geographic area, it might not help at all in other geographic areas, and that, on balance, the concept of massive forced relocation nationwide creates more problems than it ever could solve. Strong technical standards, coupled with flexibility in eligibility rules, create a framework that will both eliminate interference and promote a better 800 MHz band in the future.

Major Advantages of the Balanced Approach Proposal over the PWC/Nextel Plan

I. ***The Balanced Approach Proposal Conforms to the FCC's Stated Goals of Ameliorating Harmful Interference with Minimal Disruption to Innocent Licensees.*** The Balanced Approach Proposal virtually guarantees that where harmful interference exists, it will be ameliorated or eliminated promptly and permanently. Unlike the plan supported by Nextel, the Balanced Approach Proposal contains only elements that further the FCC's goals in this proceeding – there are no disruptive or expensive add-ons or riders inserted as regulatory "pork" to enrich a particular entity or sector.

II. ***The FCC Can Be Certain the Balanced Approach Proposal Will Be Implemented.*** This plan provides immediate as well as long-term relief. Unlike the Nextel plan, the Balanced Approach Proposal does not depend upon uncertain future funding, or upon an uncertain timetable for massive relocations requiring millions of dollars of temporary, redundant facilities. The Balanced Approach Proposal carries no risk that, partway through implementation, the process will be stopped for lack of funding or other reasons.

III. ***The Balanced Approach Proposal Avoids the Risk of Appellate Reversal.*** Unlike the Nextel plan, the Balanced Approach Proposal avoids the very substantial risk that a reviewing court would find complex new rules arbitrary and capricious, or in violation of the FCC's statutory mandate.

IV. ***The Balanced Approach Proposal Is Consistent with Overall FCC Policies.*** The plan facilitates overall FCC policies encouraging the deployment of newer, more spectrum-efficient systems, rather than creating a permanent "backwater band" where only obsolete equipment is allowed. The Balanced Approach Proposal enables Public Safety and other non-commercial groups to deploy low-site, digital systems as needed to carry out internal functions, and encourages additional shared systems among Public Safety, local government and utility industry licensees, already a trend throughout the Nation and vitally needed to create interoperability among emergency responders.